

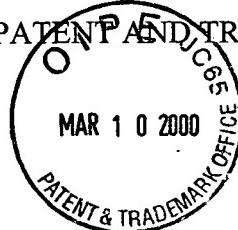
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PATENT

Attorney Docket No. 1147.0142

*#3  
B. Webb  
8/2/00*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Reissue Application of: )  
U.S. Patent No. 5,570,338 )  
*5750,338* )  
Mark L. Collins et al. )  
Reissue Serial No.: Unassigned )  
Reissue Application Filed: Herewith )

) Group Art Unit: Unassigned  
Examiner: Unassigned

For: TARGET AND BACKGROUND CAPTURE METHODS WITH  
AMPLIFICATION FOR AFFINITY ASSAYS

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**NOTICE OF RELATED LITIGATION**

Through its legal representative, the Patent Owner wishes to notify the U.S. Patent and Trademark Office that U.S. Patent 5,750,338 (the '338 patent) entitled "Target and Background Capture Methods with Amplification for Affinity Assays," filed for reissue on March 8, 2000, is involved in litigation. Nonetheless, the Patent Owner expressly requests that the reissue application be examined at this time. Moreover, on March 9, 2000, the Patent Owner filed a motion to stay the litigation pending resolution of reissue proceedings. A copy of this motion is attached. As soon as the Patent Owner receives a decision on this motion, the Patent Owner will notify the Patent Office.

*JUN 26 2000*

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DEPARTMENT OF COMMERCE

LAW OFFICES  
FINNEGAN, HENDERSON,  
FARABOW, GARRETT,  
& DUNNER, L.L.P.  
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WASHINGTON, D.C. 20005  
202-408-4000

The status of the litigation is as follows. A Complaint for Declaratory Relief was filed by a licensee of the '338 patent on December 22, 1999, alleging that the '338 patent was invalid. On January 6, 1999, the licensee provided to the Patent Owner six prior publications in support of their contention of invalidity. The Patent Owner informed the licensee of its intention to answer the complaint on January 19, 2000, and on January 25, 2000, the licensee filed an Amended Complaint further alleging unfair competition of the part of the Patent Owner. As noted above, the Patent Owner filed its Motion to Stay on March 9, 2000, and also moved to dismiss the unfair competition claims.

In accordance with its duty to provide the Patent Office documents from the litigation that are material to patentability, the Patent Owner hereby encloses copies of its Motion for a Stay of Proceedings, the Memorandum in support of that motion, and the supporting Declaration, as well as copies of the licensee's Complaints. Copies of Exhibits A-F identified in the Memorandum have not been included because they are redundant, to the extent pertinent to patentability, to papers filed with the petition for reissue, but the Patent Owner will provide them upon request by the Office. The six prior publications provided to the Patent Owner by the licensee have already been submitted to the Patent Office in an Information Disclosure Statement accompanying the reissue application filed on March 8, 2000, together with a Preliminary Amendment that explains why these prior art documents are not invalidating. In addition, the Patent Owner now seeks from the licensee the identity of any other references on which the

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licensee intends to base its allegations of invalidity.. The Patent Owner will forward these documents to the Patent Office upon receipt.

The Patent Owner will promptly notify the Patent Office of the decision on the motion for a stay of litigation. In the meantime, the Patent Owner earnestly requests expedient examination of the reissue application.

If there are any fees due in connection with the filing of this Notice not already accounted for, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: Jean Burke Fordis

Jean Burke Fordis  
Reg. No. 32,984

Date: March 10, 2000

008000-30646E\$16.00